

**Senator Stephanie Pitcher** proposes the following substitute bill:

**VOTER ACCESSIBILITY AMENDMENTS**

2023 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Matthew H. Gwynn**

Senate Sponsor: Stephanie Pitcher

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**LONG TITLE**

**General Description:**

This bill makes changes to the Election Code relating to voting accessibility.

**Highlighted Provisions:**

This bill:

- ▶ requires an election officer to provide an accessible voting option for a voter with a disability;
- ▶ requires the director of elections to make rules regarding identity verification for individuals who are unable to sign their name consistently due to a disability;
- ▶ requires that election notices include instructions on how a voter with a disability may obtain information on voting in an accessible manner; and
- ▶ makes technical changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a coordination clause.

**Utah Code Sections Affected:**

AMENDS:

**20A-3a-202**, as last amended by Laws of Utah 2022, Chapters 18, 121 and 156



26 [20A-3a-401](#), as last amended by Laws of Utah 2022, Chapter 392

27 [20A-5-101](#), as last amended by Laws of Utah 2021, First Special Session, Chapter 15

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29 *Be it enacted by the Legislature of the state of Utah:*

30 Section 1. Section **20A-3a-202** is amended to read:

31 **20A-3a-202. Conducting election by mail.**

32 (1) (a) Except as otherwise provided for an election conducted entirely by mail under  
33 Section [20A-7-609.5](#), an election officer shall administer an election primarily by mail, in  
34 accordance with this section.

35 (b) An individual who did not provide valid voter identification at the time the voter  
36 registered to vote shall provide valid voter identification before voting.

37 (2) An election officer who administers an election:

38 (a) shall in accordance with Subsection (3), no sooner than 21 days before election day  
39 and no later than seven days before election day, mail to each active voter within a voting  
40 precinct:

41 (i) a manual ballot;

42 (ii) a return envelope;

43 (iii) instructions for returning the ballot that include an express notice about any  
44 relevant deadlines that the voter must meet in order for the voter's vote to be counted;

45 (iv) for an election administered by a county clerk, information regarding the location  
46 and hours of operation of any election day voting center at which the voter may vote or a  
47 website address where the voter may view this information;

48 (v) for an election administered by an election officer other than a county clerk, if the  
49 election officer does not operate a polling place or an election day voting center, a warning, on  
50 a separate page of colored paper in bold face print, indicating that if the voter fails to follow the  
51 instructions included with the ballot, the voter will be unable to vote in that election because  
52 there will be no polling place for the voting precinct on the day of the election; and

53 (vi) [~~after May 1, 2022,~~] instructions on how a voter may sign up to receive electronic  
54 ballot status notifications via the ballot tracking system described in Section [20A-3a-401.5](#);

55 (b) may not mail a ballot under this section to:

56 (i) an inactive voter, unless the inactive voter requests a manual ballot; or

57 (ii) a voter whom the election officer is prohibited from sending a ballot under  
58 Subsection (10)(c)(ii); [~~and~~]

59 (c) shall, on the outside of the envelope in which the election officer mails the ballot,  
60 include instructions for returning the ballot if the individual to whom the election officer mails  
61 the ballot does not live at the address to which the ballot is sent[-];

62 (d) shall provide a method of accessible voting to a voter with a disability who is not  
63 able to vote by mail; and

64 (e) shall include, on the election officer's website and with each ballot mailed,  
65 instructions regarding how a voter described in Subsection (2)(d) may vote.

66 (3) (a) An election officer who mails a manual ballot under Subsection (2) shall mail  
67 the manual ballot to the address:

68 (i) provided at the time of registration; or

69 (ii) if, at or after the time of registration, the voter files an alternate address request  
70 form described in Subsection (3)(b), the alternate address indicated on the form.

71 (b) The lieutenant governor shall make available to voters an alternate address request  
72 form that permits a voter to request that the election officer mail the voter's ballot to a location  
73 other than the voter's residence.

74 (c) A voter shall provide the completed alternate address request form to the election  
75 officer no later than 11 days before the day of the election.

76 (4) The return envelope shall include:

77 (a) the name, official title, and post office address of the election officer on the front of  
78 the envelope;

79 (b) a space where a voter may write an email address and phone number by which the  
80 election officer may contact the voter if the voter's ballot is rejected;

81 (c) a printed affidavit in substantially the following form:

82 "County of \_\_\_\_ State of \_\_\_\_

83 I, \_\_\_\_, solemnly swear that: I am a qualified resident voter of the \_\_\_\_ voting precinct  
84 in \_\_\_\_ County, Utah and that I am entitled to vote in this election. I am not a convicted felon  
85 currently incarcerated for commission of a felony.

86 \_\_\_\_\_

87 Signature of Voter"; and

88 (d) a warning that the affidavit must be signed by the individual to whom the ballot  
89 was sent and that the ballot will not be counted if the signature on the affidavit does not match  
90 the signature on file with the election officer of the individual to whom the ballot was sent.

91 (5) If the election officer determines that the voter is required to show valid voter  
92 identification, the election officer may:

93 (a) mail a ballot to the voter;

94 (b) instruct the voter to include a copy of the voter's valid voter identification with the  
95 return ballot; and

96 (c) provide instructions to the voter on how the voter may sign up to receive electronic  
97 ballot status notifications via the ballot tracking system described in Section 20A-3a-401.5.

98 (6) An election officer who administers an election shall:

99 (a) (i) before the election, obtain the signatures of each voter qualified to vote in the  
100 election; or

101 (ii) obtain the signature of each voter within the voting precinct from the county clerk;  
102 and

103 (b) maintain the signatures on file in the election officer's office.

104 (7) Upon receipt of a returned ballot, the election officer shall review and process the  
105 ballot under Section 20A-3a-401.

106 (8) A county that administers an election:

107 (a) shall provide at least one election day voting center in accordance with [~~Chapter 3a,  
108 Part 7, Election Day Voting Center~~] Part 7, Election Day Voting Center, and at least one  
109 additional election day voting center for every 5,000 active voters in the county who have  
110 requested to not receive a ballot by mail;

111 (b) shall ensure that each election day voting center operated by the county has at least  
112 one voting device that is accessible, in accordance with the Help America Vote Act of 2002,  
113 Pub. L. No. 107-252, for individuals with disabilities;

114 (c) may reduce the early voting period described in Section 20A-3a-601, if:

115 (i) the county clerk conducts early voting on at least four days;

116 (ii) the early voting days are within the period beginning on the date that is 14 days  
117 before the date of the election and ending on the day before the election; and

118 (iii) the county clerk provides notice of the reduced early voting period in accordance

119 with Section 20A-3a-604;

120 (d) is not required to pay return postage for a ballot; and

121 (e) is subject to an audit conducted under Subsection (9).

122 (9) (a) The lieutenant governor shall:

123 (i) develop procedures for conducting an audit of affidavit signatures on ballots cast in  
124 an election conducted under this section; and

125 (ii) after each primary, general, or special election conducted under this section, select  
126 a number of ballots, in varying jurisdictions, to audit in accordance with the procedures  
127 developed under Subsection (9)(a)(i).

128 (b) The lieutenant governor shall post the results of an audit conducted under this  
129 Subsection (9) on the lieutenant governor's website.

130 (10) (a) An individual may request that the election officer not send the individual a  
131 ballot by mail in the next and subsequent elections by submitting a written request to the  
132 election officer.

133 (b) An individual shall submit the request described in Subsection (10)(a) to the  
134 election officer before 5 p.m. no later than 60 days before an election if the individual does not  
135 wish to receive a ballot by mail in that election.

136 (c) An election officer who receives a request from an individual under Subsection  
137 (10)(a):

138 (i) shall remove the individual's name from the list of voters who will receive a ballot  
139 by mail; and

140 (ii) may not send the individual a ballot by mail for:

141 (A) the next election, if the individual submits the request described in Subsection  
142 (10)(a) before the deadline described in Subsection (10)(b); or

143 (B) an election after the election described in Subsection (10)(c)(ii)(A).

144 (d) An individual who submits a request under Subsection (10)(a) may resume the  
145 individual's receipt of a ballot by mail by submitting a written request to the election officer.

146 Section 2. Section 20A-3a-401 is amended to read:

147 **20A-3a-401. Custody of voted ballots mailed or deposited in a ballot drop box --**  
148 **Disposition -- Notice.**

149 (1) This section governs ballots returned by mail or via a ballot drop box.

150 (2) (a) Poll workers shall open return envelopes containing manual ballots that are in  
151 the custody of the poll workers in accordance with [~~Subsection (2)(b)~~] this section.

152 (b) The poll workers shall, first, compare the signature of the voter on the affidavit of  
153 the return envelope to the signature of the voter in the voter registration records.

154 (3) After complying with Subsection (2), the poll workers shall determine whether:

155 (a) the signatures correspond;

156 (b) the affidavit is sufficient;

157 (c) the voter is registered to vote in the correct precinct;

158 (d) the voter's right to vote the ballot has been challenged;

159 (e) the voter has already voted in the election;

160 (f) the voter is required to provide valid voter identification; and

161 (g) if the voter is required to provide valid voter identification, whether the voter has  
162 provided valid voter identification.

163 (4) (a) The poll workers shall take the action described in Subsection (4)(b) if the poll  
164 workers determine that:

165 (i) (A) the signatures correspond; or

166 (B) if the signatures do not correspond and the voter qualifies for application of the  
167 alternative identification verification rules described in Subsection (10), the voter's identity is  
168 verified in accordance with the rules described in Subsection (10);

169 (ii) the affidavit is sufficient;

170 (iii) the voter is registered to vote in the correct precinct;

171 (iv) the voter's right to vote the ballot has not been challenged;

172 (v) the voter has not already voted in the election; and

173 (vi) for a voter required to provide valid voter identification, that the voter has  
174 provided valid voter identification.

175 (b) If the poll workers make all of the findings described in Subsection (4)(a), the poll  
176 workers shall:

177 (i) remove the manual ballot from the return envelope in a manner that does not  
178 destroy the affidavit on the return envelope;

179 (ii) ensure that the ballot does not unfold and is not otherwise examined in connection  
180 with the return envelope; and

181 (iii) place the ballot with the other ballots to be counted.

182 (c) If the poll workers do not make all of the findings described in Subsection (4)(a),  
183 the poll workers shall:

184 (i) disallow the vote;

185 (ii) without opening the return envelope, mark across the face of the return envelope:  
186 (A) "Rejected as defective"; or  
187 (B) "Rejected as not a registered voter"; and

188 (iii) place the return envelope, unopened, with the other rejected return envelopes.

189 (5) (a) If the poll workers reject an individual's ballot because the poll workers  
190 determine that the signature on the return envelope does not match the individual's signature in  
191 the voter registration records, the election officer shall contact the individual in accordance  
192 with Subsection (7) by mail, email, text message, or phone, and inform the individual:

193 (i) that the individual's signature is in question;

194 (ii) how the individual may resolve the issue; and

195 (iii) that, in order for the ballot to be counted, the individual is required to deliver to  
196 the election officer a correctly completed affidavit, provided by the county clerk, that meets the  
197 requirements described in Subsection (5)(b).

198 (b) An affidavit described in Subsection (5)(a)(iii) shall include:

199 (i) an attestation that the individual voted the ballot;

200 (ii) a space for the individual to enter the individual's name, date of birth, and driver  
201 license number or the last four digits of the individual's social security number;

202 (iii) a space for the individual to sign the affidavit; [~~and~~]

203 (iv) a statement that, by signing the affidavit, the individual authorizes the lieutenant  
204 governor's and county clerk's use of the individual's signature on the affidavit for voter  
205 identification purposes[-]; and

206 (v) a check box accompanied by language in substantially the following form:  
207 "I am a voter with a qualifying disability under the Americans with Disabilities Act that  
208 impacts my ability to sign my name consistently. I can provide appropriate documentation upon  
209 request. To discuss accommodations, I can be contacted at \_\_\_\_\_".

210 (c) In order for an individual described in Subsection (5)(a) to have the individual's  
211 ballot counted, the individual shall deliver the affidavit described in Subsection (5)(b) to the

212 election officer.

213 (d) An election officer who receives a signed affidavit under Subsection (5)(c) shall  
214 immediately:

215 (i) scan the signature on the affidavit electronically and keep the signature on file in the  
216 statewide voter registration database developed under Section 20A-2-109; ~~and~~

217 (ii) if the election officer receives the affidavit no later than 5 p.m. three days before  
218 the day on which the canvass begins, count the individual's ballot[-]; and

219 (iii) if the check box described in Subsection (5)(b)(v) is checked, comply with the  
220 rules described in Subsection (10).

221 (6) If the poll workers reject an individual's ballot for any reason, other than the reason  
222 described in Subsection (5)(a), the election officer shall notify the individual of the rejection in  
223 accordance with Subsection (7) by mail, email, text message, or phone and specify the reason  
224 for the rejection.

225 (7) An election officer who is required to give notice under Subsection (5) or (6) shall  
226 give the notice no later than:

227 (a) if the election officer rejects the ballot before election day:

228 (i) one business day after the day on which the election officer rejects the ballot, if the  
229 election officer gives the notice by email or text message; or

230 (ii) two business days after the day on which the election officer rejects the ballot, if  
231 the election officer gives the notice by postal mail or phone;

232 (b) seven days after election day if the election officer rejects the ballot on election day;  
233 or

234 (c) seven days after the canvass if the election officer rejects the ballot after election  
235 day and before the end of the canvass.

236 (8) An election officer may not count the ballot of an individual whom the election  
237 officer contacts under Subsection (5) or (6) unless:

238 (a) the election officer receives a signed affidavit from the individual under Subsection  
239 (5)(b) or is otherwise able to establish contact with the individual to confirm the individual's  
240 identity; and

241 (b) the affidavit described in Subsection (8)(a) is received, or the confirmation  
242 described in Subsection (8)(a) occurs, no later than 5 p.m. three days before the day on which

243 the canvass begins.

244 (9) The election officer shall retain and preserve the return envelopes in the manner  
245 provided by law for the retention and preservation of ballots voted at that election.

246 (10) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,  
247 and in compliance with Title II of the Americans with Disabilities Act of 1990, 42 U.S.C. Sec.  
248 12131 through 12165, the director of elections, within the Office of the Lieutenant Governor,  
249 shall make rules that provide for alternative means of verifying the identity of an individual  
250 who checks the box described in Subsection (5)(b)(v).

251 Section 3. Section **20A-5-101** is amended to read:

252 **20A-5-101. Notice of election.**

253 (1) On or before November 15 in the year before each regular general election year, the  
254 lieutenant governor shall prepare and transmit a written notice to each county clerk that:

255 (a) designates the offices to be filled at the next year's regular general election;

256 (b) identifies the dates for filing a declaration of candidacy, and for submitting and  
257 certifying nomination petition signatures, as applicable, under Sections [20A-9-403](#), [20A-9-407](#),  
258 and [20A-9-408](#) for those offices; and

259 (c) contains a description of any ballot propositions to be decided by the voters that  
260 have qualified for the ballot as of that date.

261 (2) (a) No later than seven business days after the day on which the lieutenant governor  
262 transmits the written notice described in Subsection (1), each county clerk shall provide notice,  
263 in accordance with Subsection (3):

264 (i) by posting notice in a conspicuous place most likely to give notice of the election to  
265 the voters in each voting precinct within the county;

266 (ii) (A) by publishing notice in a newspaper of general circulation in the county;

267 (B) by posting one notice, and at least one additional notice per 2,000 population of the  
268 county, in places within the county that are most likely to give notice of the election to the  
269 voters in the county, subject to a maximum of 10 notices; or

270 (C) by mailing notice to each registered voter in the county;

271 (iii) by posting notice on the Utah Public Notice Website, created in Section  
272 [63A-16-601](#), for seven days before the day of the election; and

273 (iv) by posting notice on the county's website for seven days before the day of the

274 election.

275 (b) The county clerk shall prepare an affidavit of the posting under Subsection (2)(a)(i),  
276 showing a copy of the notice and the places where the notice was posted.

277 (3) The notice described in Subsection (2) shall:

278 (a) designate the offices to be voted on in that election; and

279 (b) identify the dates for filing a declaration of candidacy for those offices.

280 (4) Except as provided in Subsection (6), before each election, the election officer shall  
281 give printed notice of the following information:

282 (a) the date of election;

283 (b) the hours during which the polls will be open;

284 (c) the polling places for each voting precinct, early voting polling place, and election  
285 day voting center;

286 (d) the address of the Statewide Electronic Voter Information Website and, if available,  
287 the address of the election officer's website, with a statement indicating that the election officer  
288 will post on the website any changes to the location of a polling place and the location of any  
289 additional polling place;

290 (e) a phone number that a voter may call to obtain information regarding the location of  
291 a polling place; ~~and~~

292 (f) the qualifications for persons to vote in the election[-]; and

293 (g) instructions regarding how an individual with a disability, who is not able to vote a  
294 manual ballot by mail, may obtain information on voting in an accessible manner.

295 (5) The election officer shall provide the notice described in Subsection (4):

296 (a) (i) by publishing the notice in a newspaper of general circulation in the jurisdiction  
297 to which the election pertains, at least two days before the day of the election;

298 (ii) at least two days before the day of the election, by posting one notice, and at least  
299 one additional notice per 2,000 population of the jurisdiction, in places within the jurisdiction  
300 that are most likely to give notice of the election to the voters in the jurisdiction, subject to a  
301 maximum of 10 notices; or

302 (iii) by mailing the notice to each registered voter who resides in the jurisdiction to  
303 which the election pertains at least five days before the day of the election;

304 (b) by posting notice on the Utah Public Notice Website, created in Section

305 [63A-16-601](#), for two days before the day of the election; and

306 (c) if the jurisdiction has a website, by posting notice on the jurisdiction's website for  
307 two days before the day of the election.

308 (6) Instead of including the information described in Subsection (4) in the notice, the  
309 election officer may give printed notice that:

310 (a) is entitled "Notice of Election";

311 (b) includes the following: "A [indicate election type] will be held in [indicate the  
312 jurisdiction] on [indicate date of election]. Information relating to the election, including  
313 polling places, polling place hours, and qualifications of voters may be obtained from the  
314 following sources:"; and

315 (c) specifies the following sources where an individual may view or obtain the  
316 information described in Subsection (4):

317 (i) if the jurisdiction has a website, the jurisdiction's website;

318 (ii) the physical address of the jurisdiction offices; and

319 (iii) a mailing address and telephone number.

320 Section 4. **Coordinating H.B. 162 with H.B. 37 and H.B. 448 -- Substantive and**  
321 **technical amendments.**

322 If this H.B. 162 and H.B. 448, Election Changes, both pass and become law, and H.B.  
323 37, Voter Signature Verification Amendments, does not pass, it is the intent of the Legislature  
324 that the Office of Legislative Research and General Counsel shall prepare the Utah Code  
325 database for publication, as follows:

326 (1) the changes to Subsection [20A-3a-401\(4\)\(a\)](#) in H.B. 448 supersede the changes to  
327 Subsection [20A-3a-401\(4\)\(a\)](#) in H.B. 162;

328 (2) the changes to Subsection [20A-3a-401\(5\)\(d\)\(iii\)](#) in H.B. 448 supersede the changes  
329 to Subsection [20A-3a-401\(5\)\(d\)\(iii\)](#) in H.B. 162; and

330 (3) enacted Subsection [20A-3a-401\(10\)](#) in H.B. 162 does not take effect.